

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 22, 2013

Lyle W. Cayce
Clerk

No. 12-60250
Summary Calendar

ALPHA ATIENO OLUGA

Petitioner

v.

ERIC H HOLDER, JR, U S ATTORNEY GENERAL

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A096 983 541

Before WIENER, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:*

Petitioner Alpha Atieno Oluga, a native and citizen of Kenya, seeks our review of the decision of the Board of Immigration Appeals (BIA) denying her motion to reopen removal proceedings. Oluga contends that the BIA erred in denying her motion to reopen because she was never properly notified of her immigration hearing and because she was eligible to pursue waiver under I-751. Oluga also asserts that the denial of her motion to reopen violated her due

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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process rights. The government counters that we lack jurisdiction to review the BIA's refusal to grant discretionary relief.

Because Oluga seeks review of the BIA's authority to deny a motion to reopen *sua sponte*, and because such authority is discretionary, we lack jurisdiction to review the BIA's decision. *See Ramos-Bonilla v. Mukasey*, 543 F.3d 216, 219-20 (5th Cir. 2008). Oluga's contention that her due process rights were violated by the BIA's denial of her motion to reopen is unavailing because there is no liberty interest in a motion to reopen. *Altamirano-Lopez v. Gonzales*, 435 F.3d 547, 550 (5th Cir. 2006). Accordingly, her petition is DENIED in part and DISMISSED in part.